



House of Representatives

General Assembly

File No. 102

February Session, 2010

Substitute House Bill No. 5227

House of Representatives, March 23, 2010

The Committee on General Law reported through REP. SHAPIRO of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROHIBITING PENALTY FEES IN CERTAIN CONSUMER CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 42-110aa of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2011*):

4 (a) (1) No person engaged in trade or commerce in this state, upon
5 the return of goods purchased from such person's place of business,
6 shall refuse to accept the returned goods immediately and issue the
7 individual returning such goods either a cash or credit refund of the
8 purchase price or credit towards the purchase of another item offered
9 for sale at such person's place of business, provided such return is
10 made within the period of time established by such person for the
11 acceptance of returned goods and provided further, such goods are
12 returned in a manner consistent with such person's conspicuously
13 posted refund or exchange policy. Any such person that utilizes an
14 electronic system to record, monitor and limit the number or total

15 dollar value of returns made by a consumer shall clearly indicate the
16 use of such system within such person's conspicuously posted refund
17 or exchange policy.

18 (2) No person engaged in trade or commerce in this state shall
19 charge an individual returning such goods a restocking, handling,
20 processing or any other fee associated with the return of such goods in
21 an amount exceeding the lesser of five per cent of the retail purchase
22 price of such goods or fifty dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2011	42-110aa(a)

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Consumer Protection, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential revenue gain due to potential violations of the Connecticut Unfair Trade Practices Act (CUTPA). It is anticipated that the Department of Consumer Protection can accommodate the number of complaints concerning the returning of goods and associated restocking, handling and other fees within existing resources.

The Out Years

The potential revenue gain identified above would continue into the future subject to the number of violations.

OLR Bill Analysis**sHB 5227*****AN ACT PROHIBITING PENALTY FEES IN CERTAIN CONSUMER CONTRACTS.*****SUMMARY:**

This bill prohibits anyone engaged in trade or commerce from charging a restocking, handling, processing, or any other fee associated with returning merchandise an amount that is more than (1) 5% of the purchase price or (2) \$50, whichever is less.

By law, the goods must be returned within the deadline established for accepting returned goods and in a manner consistent with the posted refund or exchange policy. Perishable goods or goods clearly marked as nonreturnable are not subject to the bill.

A violation of this bill is an unfair trade practice.

EFFECTIVE DATE: January 1, 2011

BACKGROUND***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 1 (03/09/2010)